

In the High Court of Uttaranchal, at Nainital.

Writ Petition No. 897/2004 (M/S)

Prem Lal

Petitioner.

Vs.

**District Judge U.S. Nagar
and 3 others**

..Respondents.

Dated:- 23-9-2004

Hon'ble Rajesh Tandon J.

By the impugned order the District Judge, Udham Singh Nagar has remanded the matter to the trial Court, Civil Judge (J.D.), U.S. Nagar for deciding the matter afresh.

Briefly stated the facts of the case are that a suit no. 45 of 1995 was filed by the petitioner before the Munsif Khatima, District Nainital for permanent injunction. Application under Order 39 Rules 1 and 2 C.P.C. was also filed. According to the submission of the petitioner, the respondent no.4 has disobeyed the interim injunction order and as such an application under Order 39 Rule 2-A C.P.C. was filed and the said application was rejected by the Civil Judge (J.D.) on 18-9-2002.

Aggrieved against the said order the plaintiff-petitioner has filed an appeal. The appeal was allowed and the matter was remanded to the Civil Judge (J.D.) for rehearing of the matter.

Since the order in question has been passed considering the merits of the application of the plaintiff himself, I do not see any reason to interfere in the said order.

Let the Civil Judge (J.D.) Khatima decide the application itself on merits. The writ petition therefore is dismissed. No order as to costs.

(Rajesh Tandon, J.)

ISB